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Attorneys for Plaintiff

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
(San Jose Division)

THOMAS VAN ZANDT)	Case No. CV 07 – 04987 JF
)	
Plaintiff,)	
v.)	FURTHER JOINT CASE MANAGEMENT
)	CONFERENCE STATEMENT
CITY OF SAN JOSE, et al.,)	
)	Date: June 20th, 2008 Time: 10:30 a.m.
Defendants.)	Dept. 3 Honorable Judge Jeremy Fogel
_____)	

INTRODUCTION

All parties jointly submit this Case Management Statement to update the court on the developments in this case and propose trial dates as set forth below.

DEVELOPMENTS SINCE LAST CASE MANAGEMENT CONFERENCE

Identification Of Parties And Adding Of Party Defendant

The plaintiffs sought and obtained a stipulation to file a Second Amended Complaint and add the names of two previously identified Doe defendants, Mr. Ryan Scott and Mr. Daniel Garcia. The stipulation was filed by the court May 19th, 2008. Since that time, plaintiff has been able to serve Mr. Garcia, but has not yet located Mr. Scott. A previous

1 address provided by defendant P.S.C. was no longer valid. On June 11th, 2008, plaintiffs
2 counsel identified another possible address for Mr. Scott and the complaint will have gone out
3 for service before the 13th of June, so attempts can be made to serve Mr. Scott at that address
4 (though it is not certain it is the right "Ryan Scott").

5 Counsel for P.S.C., Seja Oha, has indicated that her client is considering the
6 representation of Mr. Scott and Mr. Garcia, as they were employees at the time of the events
7 complained of herein. She is also currently putting together an answer to the Second
8 Amended Complaint.
9

10 In amending the complaint by stipulation, plaintiff added a defendant, Ms. Samantha
11 Fein. Counsel for Ms. Fein, Mr. John Haeberlin, of Rankin, Landsness, Severian & Stock,
12 signed a stipulation filed 6/10/08, agreeing to attend the June 20th, 2008, CMC, and in turn
13 plaintiff granted Ms. Fein an extension of time in which to answer and/or respond to the
14 complaint. He has not been asked to sign the CMC Statement as he has not formally appeared
15 at this time.

16 The issue at this point is allowing time for all of these necessary events to occur (service
17 on Mr. Scott, answer or response from Ms. Fein and defendant's Scott and Garcia, and
18 exchanges of Rule 26 disclosures from the newly identified and added party) , before
19 discovery can begin in earnest.
20

21 Given the number of parties and various counsel, and particularly the calendars of
22 counsel (plaintiff's counsel has two trials set in this court house in early 2009, one which is
23 calendared to last two months (March and April on the half-day trial calendar of Judge
24 Whyte), the parties suggest it would be useful to set this matter for trial now, with a setting
25 somewhat further out in time than the court might normally set the matter, in order for the

various procedural matters to be resolved, including securing service on all parties, and to allow ample time for discovery assuming those matters are all resolved within the next sixty to ninety days.

ALTERNATIVE DISPUTE RESOLUTION

The parties previously agreed upon a settlement conference with a magistrate judge, and requested a referral for same. At this point, it will be necessary to determine if the individual party defendant P.S.C. employees, or Ms. Fein, are agreeable to that proposed method of ADR, and the parties will attempt to determine if that is agreeable to all and advise the court in this regard at the time of the CMC.

TRIAL DATE PROPOSALS AND TIME ESTIMATES

The parties propose a trial date commencing May 4th, 11th, or 18th, of 2009, and estimate the total time for trial, if held on consecutive days, to not exceed six days, inclusive of jury selection. The parties will accept whatever calendaring schedule derives from the selected date, based on this court's typical calendaring of such matters as discovery cut-off, dispositive motion, pre-trial, and hearing dates, reserving the right to request modifications thereof.

Dated: 6/12/08

/S/ Robert Powell
ROBERT R. POWELL, ESQ.
Attorney for Plaintiff

Dated: 6/12/08

/S/ Michael Groves
MICHAEL GROVES, ESQ.
Attorney for Defendants City of
San Jose, Weir, Pfeiffer, Higgans,
And Natividad

1
2 Dated: 6/12/08

/S/ Kim James
KIM JAMES, ESQ.
Attorney for Westfield, LLC

3
4 Dated: 6/12/08

/S/ Seja Ojha
SEJA OJHA, ESQ.
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